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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,153	04/09/2004	Gregory A. Piccionelli	39003.813US01	1182

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EXAMINER

JUNG, DAVID YIUK

ART UNIT	PAPER NUMBER
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2134

MAIL DATE	DELIVERY MODE
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02/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,153	Applicant(s) PICCIONELLI ET AL.	
	Examiner David Y. Jung	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

CLAIMS PRESENTED

Claims 1-20 are presented.

Response to Arguments

Applicant's arguments filed have been fully considered but they are not persuasive.

Applicant has provided 3 pages of arguments. Applicant's argument (such as at the first two paragraphs of page 2) seems to be that the control means of Zdnet and control means of Cpa cannot be combined so as to produce the claimed invention. In response to applicant's argument that the control means of the references must be combinable in such fashion as Applicant requires, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

As for Zdnet, Applicant stated that Zdnet requires that this control means be handled physically by a human user. Applicant's error is in reading "allows IT Managers" as being restricted to the situation of the end user being required to handle all matters. IT Managers exist precisely to set the system (usually buying hardware and software) so that the end user does not handle matters. In a reasonable interpretation

(and borne out by actual factual development after the time of Zdnet article), this "allows IT Managers" must be read so that the end user does not handle matters. The factual development in the art has developed (constantly automating matters that used to be handled by users) has borne out.

As for Cpa, Applicant stated that the GPS cannot be noted to locate the lost computer itself (or even a part of the lost computer). This is clearly erroneous. How else be GPS used to locate the lost computer? Cpa clearly states that GPS is used to locate the lost computer. Is Applicant suggesting that GPS is merely stated in Cpa without being relevant to the lost computer? In the cited passages of Cpa, using GPS to locate the lost computer is clearly stated. How could a reasonably obvious exercise, of the teaching in combination with the assumed knowledge of the ordinary skill in the art, teach otherwise?

Thus, Applicant's arguments filed have been fully considered but they are not persuasive. Applicant is respectfully requested to submit further amendments and arguments.

CLAIM REJECTIONS

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zdnet (<http://news.zdnet.co.uk/hardware/0,1000000091,2123448,00.htm>) and Cpa <http://www.nysscpa.org/cpajournal/2003/0303/features/f032403.htm>.

Regarding claim 1, Zdnet teaches "A computer comprising
a) a processor, b) [] for determining the location of the computer,
and c) control means for controlling the operation of the processor, the control means being in [] and controlling the operation of the processor in response to location information provided to the control means by [] (the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location)."

These passages of Zdnet do not teach "position determining means and "communication with "the position determining means" in the sense of the claim. Cpa teaches "position determining means and communication with the position determining means (Section Security Procedures, such as the GPS discussion at the fourth paragraph)" for the motivation of security.

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to modify Windows for the motivation noted in the previous paragraphs so as to teach the claimed invention.

2. The computer of claim 1 wherein the position determining means comprise a GPS locator.

See Cpa, Section Security Procedure.

3. The computer of claim I wherein the position determining means comprise an accelerometer.

--Cpa, Section Security Procedures, such as the GPS discussion at the fourth paragraph.

4. The computer of claim I wherein the control means prevents operation of the processor in response to location information provided by the position determining means that indicates that the location of the computer is outside of a preselected area.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location.

5. The computer of claim 1 further comprising a hard drive in communication with the processor.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location. A hard drive must exist in order for data to exist (otherwise, no data to erase).

6. The computer of claim 5 wherein the control means instructs the processor to prevent operation of the hard drive in response to location information provided by the position determining means that indicates that the location of the computer is outside of a preselected area.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location. A hard drive must exist in order for data to exist (otherwise, no data to erase).

7. The computer of claim 5 wherein the control means instructs the processor to at least partially erase the hard drive in response to location information provided by the position determining means that indicates that the location of the computer is outside of a preselected area.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location. A hard drive must exist in order for data to exist (otherwise, no data to erase).

Claims 8-9: such alarms are well known in the art for the motivation of security.

Claims 10-14: such authentication and identification are well known in the art for the motivation of security.

15. The computer of claim 11 further comprising a hard drive in communication with the processor.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location. A hard drive must exist in order for data to exist (otherwise, no data to erase).

16. The computer of claim 15 wherein the control means instructs the processor to prevent operation of the hard drive upon failure of the identification means to identify the user as an authorized user.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location. A hard drive must exist in order for data to exist (otherwise, no data to erase).

17. The computer of claim 15 wherein the control means instructs the processor to at least partially erase the hard drive upon failure of the identification means to identify the user as an authorized user.

--Zdnet, the next to last paragraph, discussion on remotely erasing data which is a controlling and handling location such as the remote location. A hard drive must exist in order for data to exist (otherwise, no data to erase).

Claims 18-19: such alarms are well known in the art for the motivation of security.

20. The computer of claim 1 which is a portable computer.

See Cpa, the first paragraph, which discusses laptops.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Points of Contact

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Kambiz Zand whose telephone number is (571) 272-3811.

/David Y Jung/

Primary Examiner, Art Unit 2134

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David Jung

Patent Examiner

2/15/08